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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY SCKET NO.
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08/348,618 12/02/94 DINKINS

G EON004

EXAMINER

TUN, D

26M1/0926

ART UNIT

PAPER NUMBER

PATRICK T KING
36 SEASCAPE VILLAGE
APTOS CA 95003-6101

2603

DATE MAILED:

09/26/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-25 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-25 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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1. The disclosure is objected to because of the following informalities: Applicant should provide a status of copending application serial number 07/966,414 in the specification, page

1. Appropriate correction is required.

2. Claims 1-4, and 13-17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14, lines 9-17, "network hub ... available" is not clear.

In claim 1, it is not clear what is meant by "each local remote receiver adapted for receiving - only power digital messages transmitted from said local subscriber units within range of said local remote receiver"? Similar problem exists in claim 13.

Claims 2-4 and 15-17 are rejected since they depend from claim 1 or claim 14.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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Claims 5, 6, 8, 10, 18-19, 21 and 23 are rejected under 35 U.S.C. § 102(e) as being anticipated by Shpancer et al (5,282,204).

Shpancer et al disclose an apparatus and method for overlaying data on trunked radio comprising the steps of transmitting data from a local base station repeater cell to a modem communicatively coupled to the local base station repeater cell (see columns 1-5 and Figure 1); and transmitting the data received by the modem to a subscriber unit communicatively coupled to the modem (see Figure 1 and columns 2-7).

4. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 7, 9, 11, 12, 20, 22, 23 and 25 are rejected under 35 U.S.C. § 103 as being unpatentable over Shpancer et al.

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For claims 7, 12, 20, and 25, Shpancer et al do not teach transmitting the data from the local base station repeater cell to the modem via a telephone line.

For claims 9, 11, 22 and 23, Shpancer et al do not teach an RF carrier frequency of approximately 218-219 MHZ.

Shpancer et al disclose all the subject matter of the claimed invention with the exception of transmitting the data via the telephone line and RF frequency of approximately 218-219 MHZ in a communications network. However, transmitting the data from the local base station repeater cell to the modem via the telephone line and the RF carrier frequency of approximately 218-219 MHZ in the communications network of Shpancer et al do not provide any unexpected result. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the telephone line and the RF carrier frequency of approximately 218-219 MHZ in the communications network of Shpancer et al for the purpose of providing several substantial benefits over a standard two-way interactive data broadcast network.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kito is cited to show a mobile radio communication system which is considered pertinent to the claimed invention.

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6. Claims 1-4 and 13-17 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dang Ton whose telephone number is (703) 305-4739. The examiner can normally be reached on Monday-Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms, can be reached on (703) 305-4703. The fax phone number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Dang Ton/skf *T.O.*
September 19, 1995

Benedict V. Safourek
BENEDICT V. SAFOUREK
PRIMARY EXAMINER
GROUP 263